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10/804,932	03/19/2004	Anne-Marie Chalmers	AU-002	8228
959 7590 08/07/2008 LAHIVE & COCKFIELD, LLP FLOOR 30, SUITE 3000 ONE POST OFFICE SQUARE BOSTON, MA 02109			EXAMINER PHONGSVIRAJATI, POONSIN	
			ART UNIT	PAPER NUMBER
			4176	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,932

Applicant(s)

CHALMERS, ANNE-MARIE

Examiner

SIND PHONGSVIRAJATI

Art Unit

4176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112, Second Paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 21 recites the limitation "the said hand written prescription" in line 12 of Claim 21. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, the said hand written prescription will be interpreted as any means of hand writing a prescription.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by McCormick (US 2002/0035484).

3. As to **Claim 1**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of orders for multiple medication products (McCormick, Abstract), comprising the steps of:

- sending orders for multiple medication production products to a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- filling the said orders for multiple medication products at the said centralized medication product fulfillment facility (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- sending the said medication products as directed in said order (McCormick, paragraphs 0087-0088, 0090).

4. As to **Claim 2**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- prescribing by a physician of a prescription for medication products for an individual patient (McCormick, Fig. 1B element 220, Fig. 4 and paragraphs 0013-0014);
- sending the said prescription electronically to, and receiving the said prescription at, a centralized medication product fulfillment facility (McCormick,

Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);

- filling the said prescription at the centralized medication product fulfillment facility (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- sending the said medication product from the centralized medication product fulfillment facility directly to the patient (McCormick, paragraphs 0087-0088, 0090).

5. As to **Claim 3**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- prescribing by a physician of a prescription for medication products for an individual patient (McCormick, Fig. 1B element 220, Fig. 4 and paragraphs 0013-0014);
- sending the said prescription electronically to, and receiving the said prescription at, a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- filling the said prescription at the centralized medication product fulfillment facility (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- sending the said medication product from the centralized medication product fulfillment facility directly to an intermediary for subsequent pick-up by

the patient at the location of the intermediary (McCormick, paragraphs 0087-0088, 0090).

6. As to **Claim 4**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- prescribing by a physician of a prescription for medication products for an individual patient (McCormick, Fig. 1B element 220, Fig. 4 and paragraphs 0013-0014);
- sending the said prescription electronically to, and receiving the said prescription at, a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- confirming at the centralized medication product fulfillment facility the accuracy of the said prescription (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- filling the said prescription at the centralized medication product fulfillment facility (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- sending the said prescription from the centralized medication product fulfillment facility directly to the patient (McCormick, paragraphs 0087-0088, 0090).

7. As to **Claim 5**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- prescribing by a physician of a prescription for medication products for an individual patient (McCormick, Fig. 1B element 220, Fig. 4 and paragraphs 0013-0014);
- sending the said prescription electronically to, and receiving the said prescription at, a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- confirming at the centralized medication product fulfillment facility the accuracy of the said prescription (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- filling the said prescription at the centralized medication product fulfillment facility (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- sending the said prescription from the centralized medication product fulfillment facility directly to an intermediary for subsequent pick-up by the patient at the location of the intermediary (McCormick, paragraphs 0087-0088, 0090).

8. As to **Claim 12**, McCormick teaches a system for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising means for a

- prescribing physician to transmit a prescription for medication for an individual patient to be immediately electronically sent to and received at a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- means at the centralized medication product fulfillment facility to confirm the accuracy of the said prescription (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- means for the centralized medication product fulfillment facility to fill the said prescription (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- means for the centralized medication product fulfillment facility to send the prescription medication directly to the patient (McCormick, paragraphs 0087-0088, 0090).

9. As to **Claim 13**, McCormick teaches a system for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising:

- means for a prescribing physician to transmit a prescription for medication for an individual patient to be immediately electronically sent to and received at a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- means at the centralized medication product fulfillment facility to confirm the accuracy of the said prescription (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- means for the centralized medication product fulfillment facility to fill the said prescription (McCormick, Fig. 1B element 240 and paragraphs 0055, 0095); and
- means for the centralized medication product fulfillment facility to send the prescription medication directly to an intermediary for subsequent pick-up by the patient at the location of the intermediary (McCormick, paragraphs 0087-0088, 0090).

10. As to **Claim 14**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- prescribing by a physician of a prescription for medication for an individual patient (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- sending the said prescription electronically to, and receiving the said prescription at, a centralized medication fulfillment center (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- confirming at the centralized medication product fulfillment facility the accuracy of the said prescription (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- confirming at the centralized medication product fulfillment facility the safe dosage of the said prescription (McCormick, paragraph 0092-0093);
- confirming at the centralized medication product fulfillment facility the safe drug combination of the said prescription (McCormick, paragraphs 0045, 0076);
- filling the said prescription in individualized, customized presentation packaging (McCormick, paragraph 0093); and
- sending the said prescription from the centralized medication product fulfillment facility directly to the patient (McCormick, paragraphs 0087-0088, 0090).

11. **Claims 15-17** substantially repeats the same steps and limitation as Claims 1-14 and therefore are rejected under the same grounds as recited above.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick (US 2002/0035484 A1) in view of Sleep et al (US 6,317,648).

14. As to **Claim 6**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- communicating, by communication means, between a patient and a physician regarding a health condition of the patient (McCormick, paragraph 0048, the Examiner takes the position that it is inherent a physician discusses a patient's health condition before diagnosing or prescribing medication);
- diagnosing by a physician of a health condition of a patient; prescribing by the physician of medication to address the health condition of the patient (McCormick, paragraphs 0014-0015 and 0043);
- sending the said prescription to a centralized medication product fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy); and

- dispatching the said medication product from the centralized medication product fulfillment facility to the patient (McCormick, paragraphs 0087-0088, 0090).

But McCormick does not specifically disclose filing the said prescription through a computer directed automated assembly production line at the centralized medication product fulfillment facility. However, Sleep does teach filing the said prescription through a computer directed automated assembly production line at the centralized medication product fulfillment facility (Sleep, Abstract). One of ordinary skill in the art at the time of the invention would have found it obvious to combine an automated assembly and packaging line as taught by Sleep with the invention of generating and fulfilling a medication prescription as taught by McCormick. One would have been motivated to combine in order to provide a customer specific packaging line operating at a mass production level (Sleep, col. 2 lines 60-66);

15. As to **Claim 7**, McCormick teaches the method of claim 6, in which the said communication means is a personal visit by the patient to the physician (McCormick, paragraph 0038).

16. As to **Claim 8**, McCormick teaches the method of claim 6, in which the said communications means is a telephone call between the patient and the physician (McCormick, paragraph 0066).

17. As to **Claim 9**, the combination of McCormick and Sleep does not specifically teach the method of claim 6, in which the said communications means is a video

conference between the patient and the physician. However, the Examiner takes official notice that it is well known in the art to have a video conference between a patient and their physician in order to communicate and/or diagnose the patient. It would have been obvious to one of ordinary skill in the art at the time of the invention to communicate with the patient via video conferencing when the patient is unavailable to visit the physician. One would have been motivated to choose video conferencing to remotely communicate with their patients from the physician's local computer terminals (McCormick, paragraph 0062-0064).

18. As to **Claim 10**, the combination of McCormick and Sleep does not specifically teach the method of claim 6, in which the said communications means is a satellite communication between the patient and the physician. However, the Examiner takes official notice that it is well known in the art to have a satellite communication between a patient and their physician in order to communicate and/or diagnose the patient. It would have been obvious to one of ordinary skill in the art at the time of the invention to communicate with the patient via satellite communication when the patient is unavailable to visit the physician. One would have been motivated to choose satellite communication to remotely communicate with their patients from the physician's local computer terminals (McCormick, paragraph 0062-0064).

19. As to **Claim 11**, McCormick teaches the method of claim 6, in which the said communications means is an internet communication between the patient and the physician (McCormick, paragraph 0066).

20. Claims 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick (US 2002/0035484) in view of Feeney et al. (US 2002/0032582).

21. As to **Claim 18**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- visiting a medical facility/physician by a patient; diagnosing by a physician of the health condition of a patient (McCormick, paragraphs 0014-0015, 0038 and 0043);
- determining by a physician the medication to prescribe for the patient; prescribing by a physician of medication for a patient (McCormick, paragraphs 0014-0015, 0038 and 0043);
- recording and memorializing the said prescription by the physician using electronic means an electronic notepad (McCormick, paragraphs 0014-0015, and 0018);
- transmitting the said prescription electronically to, and receiving the said prescription at, a centralized prescription medication fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);

- receiving at a computer located at a centralized the prescription medication fulfillment facility the prescription from the physician (McCormick, paragraph 0056);
- comparing by the centralized prescription medication fulfillment facility computer the said prescription with a drug database to assure that the prescription has been properly read at the centralized prescription medication fulfillment facility (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a drug database to assure that the prescribed dosages are within the recommended limits (McCormick, paragraphs 0092-0093);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a prescription database to assure that the prescription is not incompatible with other medications currently prescribed to the same patient (McCormick, paragraphs 0045 and 0076);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for one medication or for multiple medications (McCormick, paragraph 0056, the Examiner takes the position that it is inherent the prescription sent by the physician will contain orders of one or more medication and the pharmacy would easily ascertain to the quantity of medications);

- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for liquid medication or for solid medication or for both (McCormick, Fig. 5, the Examiner takes the position that it is inherent for the centralized prescription medication fulfillment facility computer to determine whether the prescription is for liquid medication or for solid medication or for both since the metric units labeled on the prescription ascertain to the physical state of the medication);
- directing by the centralized prescription medication fulfillment facility computer to the centralized prescription medication fulfillment facility packing production equipment to fill the prescription (McCormick, paragraph 0079, 0090, 0093, and 0095);
- causing by the centralized prescription medication fulfillment facility computer the printing of a label for the medication (McCormick, paragraphs 0092-0093);
- affixing the said printed label by centralized prescription medication fulfillment facility label affixing equipment to the said packaged prescription medication (McCormick, paragraph 0093);
- subjecting the said packaged and labeled prescribed medications to appropriate quality control procedures (McCormick, paragraphs 0094 and 0096);
- addressing the said quality control approved medication package, using centralized prescription medication fulfillment facility computer directed

addressing equipment, for delivery in accordance with instructions provided by or for the patient (McCormick, paragraphs 0094 and 0096);

- preparing and processing the said addressed medication package for dispatch from the centralized prescription medication fulfillment facility (McCormick, paragraphs 0087-0088, 0090); and
- dispatching the said medication package by overnight messenger delivery service directly to the patient (McCormick, paragraph 0090, the Examiner takes the position that mail order companies have options for an overnight delivery service).

But McCormick does not specifically disclose transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient. However, this practice of transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said

prescription is not compatible with other medications then currently taken by the same patient is well known in the art as disclosed by Feeney (Feeney, paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the system of McCormick so as to clarify and confirm the medication for the patient. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

McCormick does not specifically disclose notifying the patient by the centralized prescription medication fulfillment facility computer that the prescription will not be filled at the centralized prescription medication fulfillment facility, if the centralized prescription medication fulfillment facility had not received any requisite confirmation from the physician confirming the uniqueness of the prescription as to the specific patient but Feeney does teach of this feature (Feeney, paragraph 0226). It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the invention of McCormick so as to not fulfill medication if the centralized prescription medication facility did not receive confirmation from the physician. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

22. As to **Claim 19**, McCormick teaches the method of claim 18, in which the said electronic recording and memorializing means is an electronic notepad (McCormick, paragraph 0099).

23. As to **Claim 20**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- visiting a medical facility/physician by a patient (McCormick, paragraph 0038);
- diagnosing by a physician of the health condition of a patient (McCormick, paragraphs 0038-0040);
- determining by a physician the medication to prescribe for the patient (McCormick, paragraph 0014-0015);
- prescribing by a physician of medication for a patient (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- recording and memorializing the said prescription by the physician orally using a voice recorder (McCormick, paragraph 0105);
- processing and converting the said orally recorded prescription, using speech recognition software and associated hardware, into computer readable format and language (McCormick, paragraph 0105);
- transmitting the said prescription electronically to, and receiving the said prescription at, a centralized prescription medication fulfillment facility

(McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);

- receiving at a computer located at a centralized the prescription medication fulfillment facility the prescription from the physician (McCormick, paragraph 0056);
- comparing by the centralized prescription medication fulfillment facility computer the said prescription with a drug database to assure that the prescription has been properly read at the centralized prescription medication fulfillment facility (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a drug database to assure that the prescribed dosages are within the recommended limits (McCormick, paragraphs 0092-0093);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a prescription database to assure that the prescription is not incompatible with other medications currently prescribed to the same patient (McCormick, paragraphs 0045 and 0076);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for one medication or for multiple medications (McCormick, paragraph 0056, the Examiner takes the position that it is inherent the prescription sent by the physician will contain orders of one or more

medication and the pharmacy would easily ascertain to the quantity of medications);

- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for liquid medication or for solid medication or for both (McCormick, Fig. 5, the Examiner takes the position that it is inherent for the centralized prescription medication fulfillment facility computer to determine whether the prescription is for liquid medication or for solid medication or for both since the metric units labeled on the prescription ascertain to the physical state of the medication);
- directing by the centralized prescription medication fulfillment facility computer to the centralized prescription medication fulfillment facility packing production equipment to fill the prescription (McCormick, paragraph 0079, 0090, 0093, and 0095);
- causing by the centralized prescription medication fulfillment facility computer the printing of a label for the medication (McCormick, paragraphs 0092-0093);
- affixing the said printed label by centralized prescription medication fulfillment facility label affixing equipment to the said packaged prescription medication (McCormick, paragraph 0093);
- subjecting the said packaged and labeled prescribed medications to appropriate quality control procedures (McCormick, paragraphs 0094 and 0096);

- addressing the said quality control approved medication package, using centralized prescription medication fulfillment facility computer directed addressing equipment, for delivery in accordance with instructions provided by or for the patient (McCormick, paragraphs 0094 and 0096);
- preparing and processing the said addressed medication package for dispatch from the centralized prescription medication fulfillment facility (McCormick, paragraphs 0087-0088, 0090); and
- dispatching the said medication package by overnight messenger delivery service directly to the patient (McCormick, paragraph 0090, the Examiner takes the position that mail order companies have options for an overnight delivery service).

But McCormick does not specifically disclose transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient. However, this practice of transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said

prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient is well known in the art as disclosed by Feeney (Feeney, paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the system of McCormick so as to clarify and confirm the medication for the patient. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

McCormick does not specifically disclose notifying the patient by the centralized prescription medication fulfillment facility computer that the prescription will not be filled at the centralized prescription medication fulfillment facility, if the centralized prescription medication fulfillment facility had not received any requisite confirmation from the physician confirming the uniqueness of the prescription as to the specific patient but Feeney does teach of this feature (Feeney, paragraph 0226). It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the invention of McCormick so as to not fulfill medication if the centralized prescription medication facility did not receive confirmation from the physician. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

24. As to **Claim 21**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- visiting a medical facility/physician by a patient (McCormick, paragraph 0038);
- diagnosing by a physician of the health condition of a patient (McCormick, paragraphs 0038-0040);
- determining by a physician the medication to prescribe for the patient (McCormick, paragraph 0014-0015);
- recording and memorializing the said prescription by the physician using a non-electronic means (McCormick, paragraph 0039);
- scanning, using optical scanning software and associated hardware, the said hand written prescription, and converting it into computer readable format and language (McCormick, paragraphs 0013-0015, 0017-0018, 0047);
- transmitting the said prescription electronically to, and receiving the said prescription at, a centralized prescription medication fulfillment facility (McCormick, Fig. 1B element 230 and paragraph 0054, wherein the physician can send multiple medication orders to the pharmacy);
- receiving at a computer located at a centralized the prescription medication fulfillment facility the prescription from the physician (McCormick, paragraph 0056);

- comparing by the centralized prescription medication fulfillment facility computer the said prescription with a drug database to assure that the prescription has been properly read at the centralized prescription medication fulfillment facility (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a drug database to assure that the prescribed dosages are within the recommended limits (McCormick, paragraphs 0092-0093);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a prescription database to assure that the prescription is not incompatible with other medications currently prescribed to the same patient (McCormick, paragraphs 0045 and 0076);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for one medication or for multiple medications (McCormick, paragraph 0056, the Examiner takes the position that it is inherent the prescription sent by the physician will contain orders of one or more medication and the pharmacy would easily ascertain to the quantity of medications);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for liquid medication or for solid medication or for both (McCormick, Fig. 5, the Examiner takes the position that it is inherent for the centralized prescription medication fulfillment facility computer to determine

whether the prescription is for liquid medication or for solid medication or for both since the metric units labeled on the prescription ascertain to the physical state of the medication);

- directing by the centralized prescription medication fulfillment facility computer to the centralized prescription medication fulfillment facility packing production equipment to fill the prescription (McCormick, paragraph 0079, 0090, 0093, and 0095);
- causing by the centralized prescription medication fulfillment facility computer the printing of a label for the medication (McCormick, paragraphs 0092-0093);
- affixing the said printed label by centralized prescription medication fulfillment facility label affixing equipment to the said packaged prescription medication (McCormick, paragraph 0093);
- subjecting the said packaged and labeled prescribed medications to appropriate quality control procedures (McCormick, paragraphs 0094 and 0096);
- addressing the said quality control approved medication package, using centralized prescription medication fulfillment facility computer directed addressing equipment, for delivery in accordance with instructions provided by or for the patient (McCormick, paragraphs 0094 and 0096);
- preparing and processing the said addressed medication package for dispatch from the centralized prescription medication fulfillment facility (McCormick, paragraphs 0087-0088, 0090); and

- dispatching the said medication package by overnight messenger delivery service directly to the patient (McCormick, paragraph 0090, the Examiner takes the position that mail order companies have options for an overnight delivery service).

But McCormick does not specifically disclose transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient. However, this practice of transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient is well known in the art as disclosed by Feeney (Feeney, paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the system of McCormick so as to clarify and confirm the medication for the patient. One would have been motivated to clarify and confirm a

patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

McCormick does not specifically disclose notifying the patient by the centralized prescription medication fulfillment facility computer that the prescription will not be filled at the centralized prescription medication fulfillment facility, if the centralized prescription medication fulfillment facility had not received any requisite confirmation from the physician confirming the uniqueness of the prescription as to the specific patient but Feeney does teach of this feature (Feeney, paragraph 0226). It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the invention of McCormick so as to not fulfill medication if the centralized prescription medication facility did not receive confirmation from the physician. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

25. As to **Claim 22**, McCormick teaches the method of claim 21, in which the said non-electronic recording and memorializing means is a handwritten prescription pad sheet of paper (McCormick, paragraph 0039).

26. As to **Claim 23**, McCormick teaches the method of claim 21, in which the said non-electronic recording and memorializing means is an entry on a paper file record at the physician's office (McCormick, paragraph 0038-0039).

27. As to **Claim 24**, McCormick teaches a method for the fulfillment, at a centralized medication product fulfillment facility, of prescriptions for multiple medication products, for simultaneous ingestion or insertion into a live body, comprising the steps of:

- visiting a medical facility/physician by a patient (McCormick, paragraph 0038);
- diagnosing by a physician of the health condition of a patient (McCormick, paragraphs 0038-0040);
- determining by a physician the medication to prescribe for the patient McCormick, paragraph 0014-0015);
- prescribing by a physician of medication for a patient McCormick, paragraph 0014-0015);
- recording and memorializing the said prescription by the physician using a non-electronic means (McCormick, paragraph 0039);
- receiving at a computer located at a centralized the prescription medication fulfillment facility the prescription from the physician (McCormick, paragraph 0056);
- comparing by the centralized prescription medication fulfillment facility computer the said prescription with a drug database to assure that the prescription has been properly read at the centralized prescription medication fulfillment facility (McCormick, paragraphs 0016, 0047, 0056, 0069, 0110);

- comparing by the centralized prescription medication fulfillment facility computer the prescription with a drug database to assure that the prescribed dosages are within the recommended limits (McCormick, paragraphs 0092-0093);
- comparing by the centralized prescription medication fulfillment facility computer the prescription with a prescription database to assure that the prescription is not incompatible with other medications currently prescribed to the same patient (McCormick, paragraphs 0045 and 0076);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for one medication or for multiple medications (McCormick, paragraph 0056, the Examiner takes the position that it is inherent the prescription sent by the physician will contain orders of one or more medication and the pharmacy would easily ascertain to the quantity of medications);
- determining by the centralized prescription medication fulfillment facility computer whether the prescription is for liquid medication or for solid medication or for both (McCormick, Fig. 5, the Examiner takes the position that it is inherent for the centralized prescription medication fulfillment facility computer to determine whether the prescription is for liquid medication or for solid medication or for both since the metric units labeled on the prescription ascertain to the physical state of the medication);

- directing by the centralized prescription medication fulfillment facility computer to the centralized prescription medication fulfillment facility packing production equipment to fill the prescription (McCormick, paragraph 0079, 0090, 0093, and 0095);
- causing by the centralized prescription medication fulfillment facility computer the printing of a label for the medication (McCormick, paragraphs 0092-0093);
- affixing the said printed label by centralized prescription medication fulfillment facility label affixing equipment to the said packaged prescription medication (McCormick, paragraph 0093);
- subjecting the said packaged and labeled prescribed medications to appropriate quality control procedures (McCormick, paragraphs 0094 and 0096);
- addressing the said quality control approved medication package, using centralized prescription medication fulfillment facility computer directed addressing equipment, for delivery in accordance with instructions provided by or for the patient (McCormick, paragraphs 0094 and 0096);
- preparing and processing the said addressed medication package for dispatch from the centralized prescription medication fulfillment facility (McCormick, paragraphs 0087-0088, 0090); and
- dispatching the said medication package by overnight messenger delivery service directly to the patient (McCormick, paragraph 0090, the Examiner takes

the position that mail order companies have options for an overnight delivery service).

But McCormick does not specifically disclose transmitting the said non-electronic recorded and memorialized prescription, using telephone facsimile transmission software and associated hardware, to, and receiving the said prescription at, a centralized prescription medication fulfillment facility. However, Feeney does disclose transmitting the said non-electronic recorded and memorialized prescription, using telephone facsimile transmission software and associated hardware, to, and receiving the said prescription at, a centralized prescription medication fulfillment facility (Feeney, paragraph 0219).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the system of McCormick so as to transmit a prescription by fax to the centralized prescription medication fulfillment facility. One would be motivated to fax a prescription to a pharmacy in order to have a patient fill or refill his prescription (Feeney, paragraph 0231).

But McCormick does not specifically disclose transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the

same patient. However, this practice of transmitting electronically by the centralized prescription medication fulfillment facility computer a message back to the prescribing physician for clarification and confirmation if the said prescription is not understood by the centralized prescription medication fulfillment facility computer, or if the said prescription is for dosages which are not within recommended limits, or if the said prescription is not compatible with other medications then currently taken by the same patient is well known in the art as disclosed by Feeney (Feeney, paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the system of McCormick so as to clarify and confirm the medication for the patient. One would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

McCormick does not specifically disclose notifying the patient by the centralized prescription medication fulfillment facility computer that the prescription will not be filled at the centralized prescription medication fulfillment facility, if the centralized prescription medication fulfillment facility had not received any requisite confirmation from the physician confirming the uniqueness of the prescription as to the specific patient but Feeney does teach of this feature (Feeney, paragraph 0226). It would have been obvious to one of ordinary skill in the art at the time of the invention, to have modified the invention of McCormick so as to not fulfill medication if the centralized prescription medication facility did not receive confirmation from the physician. One

would have been motivated to clarify and confirm a patient's medication order to insure the patient's safety and to follow standard pharmacy guidelines (Feeney, paragraph 0317).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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/S. P./
Examiner, Art Unit 4176
4 August 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
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